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and Counterdefendants Ecco Domani USA, Inc. and Tequila Supremo, S.A. de C.V.

15 **UNITED STATES DISTRICT COURT**  
16 **EASTERN DISTRICT OF CALIFORNIA**  
17 **FRESNO DIVISION**

18  
19 E. & J. GALLO WINERY, a California  
corporation,  
20 Plaintiff,  
21 v.  
22 PROXIMO SPIRITS, INC., a Delaware  
corporation; AGAVERA CAMICHINES, S.A.  
23 DE C.V., a Mexico corporation; and DOES 1-25,  
24 Defendants.

25  
26 **AND RELATED COUNTERCLAIMS**  
27  
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Case No. 1:10-CV-00411 LJO JLT

**ORDER GRANTING GALLO'S REQUEST  
TO FILE SUPPLEMENTAL DOCUMENTS  
UNDER SEAL**

**(DOC. 358)**

1 Before the Court is the request to seal invoices for services rendered in April and May 2012 and  
2 not previously submitted to the Court for consideration in connection with Gallo's motion for attorneys'  
3 fees. (Doc. 358) Gallo contends the documents should be sealed for several reasons, including the need  
4 to protect attorney-client communications, attorney-work product, financial information that would  
5 impact counsel's competitive advantage and confidential business information related to Gallo.

6 Generally, documents filed in civil cases are presumed to be available to the public. EEOC v.  
7 Erection Co., 900 F.2d 168, 170 (9th Cir. 1990); see also Kamakana v. City and County of Honolulu, 447  
8 F.3d 1172, 1178 (9th Cir.2006); Foltz v. State Farm Mut. Auto Ins. Co., 331 F.3d 1122, 1134 (9th  
9 Cir.2003). Documents may be sealed only when the compelling reasons for doing so outweigh the  
10 public's right of access. EEOC at 170. In evaluating the request, the Court considers the "public interest  
11 in understanding the judicial process and whether disclosure of the material could result in improper use  
12 of the material for scandalous or libelous purposes or infringement upon trade secrets." Valley  
13 Broadcasting Co. v. United States District Court, 798 F.2d 1289, 1294 (9<sup>th</sup> Cir. 1986). In addition, in  
14 trademark/dress matters, attorney billing rates which are not publicly known and are "competitively  
15 sensitive," warrant sealing. China Intl Travel Servs. (USA) v. China & Asia Travel Serv., 2008 U.S.  
16 Dist. LEXIS 106622 at \*29 (N.D. Cal. Dec. 18, 2008); Mine O'Mine, Inc. v. Calmese, 2012 U.S. Dist.  
17 LEXIS 53077 at \*10 (D. Nev. Apr. 16, 2012).

18 The Court has reviewed the supplemental invoices submitted by the McCormick Barstow and  
19 Harvey Siskind firms. Once again, nearly every from the McCormick Barstow bills excludes reference  
20 to attorney-client communications, attorney-work product information or information that bears on  
21 Gallo's trade secrets. The noted exceptions are ordered SEALED.

22 Again, the Harvey Siskind billing records are replete with entries that reveal information about  
23 the attorneys' activities and why the work was done. Also, there are entries that reveal, to some extent,  
24 Gallo's business strategies. Therefore, as to these records, they will be ordered SEALED.

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1 **ORDER**

2 Based upon the foregoing, the Court **ORDERS:**

- 3 1. The request to seal the specified portions of the supplemental billing records from  
4 McCormick Barstow is **GRANTED**;
- 5 2. The request to seal the supplemental billing records from Harvey Siskind is **GRANTED**;
- 6 3. The Clerk of the Court is **DIRECTED** to file these documents, or portions thereof, under  
7 seal.

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11 **IT IS SO ORDERED.**

12 Dated: **July 9, 2012**

**/s/ Jennifer L. Thurston**  
13 **UNITED STATES MAGISTRATE JUDGE**